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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/850,354	05/07/2001	Dale Scott Crombez	200-0375	2287

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DYKEMA GOSSETT PLLC
39577 WOODWARD AVENUE
SUITE 300
BLOOMFIELD HILLS, MI 48304

EXAMINER

BURCH, MELODY M

ART UNIT	PAPER NUMBER
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3683

DATE MAILED: 01/14/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/850,354

Applicant(s)

CROMBEZ ET AL.

Examiner

Melody M. Burch

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 2 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) ☒ Responsive to communication(s) filed on 10/31/03.

2a) ☐ This action is FINAL.

2b) ☐ This action is non-final.

3) ☒ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) ☒ Claim(s) 1-4 and 7-13 is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5) ☒ Claim(s) 1-4 and 7-13 is/are allowed.

6) ☐ Claim(s) _____ is/are rejected.

7) ☐ Claim(s) _____ is/are objected to.

8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) ☐ The specification is objected to by the Examiner.

10) ☒ The drawing(s) filed on 07 May 2001 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) ☐ All b) ☐ Some * c) ☐ None of:

1. ☐ Certified copies of the priority documents have been received.

2. ☐ Certified copies of the priority documents have been received in Application No. _____.

3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

a) ☐ The translation of the foreign language provisional application has been received.

14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)

2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____.

4) ☐ Interview Summary (PTO-413) Paper No(s) _____.

5) ☐ Notice of Informal Patent Application (PTO-152)

6) ☐ Other: _____.

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1. This application is in condition for allowance except for the following formal matters:

In figures 1-3 the electric regenerative brakes should be clearly shown and labeled (specification changes should also be made accordingly) similar to the way in which the friction brakes 26 are clearly shown and labeled. Examiner notes that a rectangle drawn above the bottom wheel 18 in figure 3 appears to represent the presence of an electric regenerative brake but is not labeled and is not shown on the top wheel 18.

Prosecution on the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

A shortened statutory period for reply to this action is set to expire **TWO MONTHS** from the mailing date of this letter.

Allowable Subject Matter

2. Claims 1-4 and 7-13 are allowed.

Response to Arguments

3. Applicant's arguments, see Appeal Brief, filed 10/31/03, with respect to the specification objection, the 112 first rejections and the 102 and 103 rejections have been fully considered and are persuasive. The abovementioned objection/rejections have been withdrawn.

With regard to the specification objection and the 112 first rejections, Examiner agrees that since Applicant describes on pg. 5 lines 1-2 that there are electric regenerative brakes on the first wheeled axle and on pg. 3 lines 9-11 that there are no

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friction service brakes on the first wheeled axle, the originally filed specification supports the inclusion of the limitation of the first wheeled axle exclusively having only electric regenerative brakes. Examiner also agrees that pg. 5 lines 2-3 provides support for the second wheeled axle being non-driven and having exclusively only friction brakes 26. It is agreed that although "comprising" is an open-ended term, the use of the words "exclusively" and "only" sufficiently limits the first wheeled axle and the second wheeled axle to electric regenerative brakes and friction brakes, respectively.

With regard to the 102 and 103 rejections, Examiner agrees that the prior art of record fails to show the limitation of the first wheeled axle having exclusively only electric regenerative brakes and the second wheeled axle having only friction brakes. For example, US Patent 5707115 to Bodie et al. teaches the use of a first wheeled axle having only electric brakes 48,50 and a second wheeled axle with driven wheels 24,26 having friction brakes 36,38 and regenerative electric braking capability via element 18. US Patent 5378053 to Patient et al. shows the front axle having wheels 11,13 being electrically braked via element 15 and frictionally braked via elements 19,21,23 as shown in the figure on the front of the patent. Similarly, the wheeled axle 24,26 of the Manabe (US Patent 6120115) reference is shown to be both electrically braked via elements 22,28 and frictionally braked via elements 32,34. Therefore independent claims 1, 4, 7, and 12 are allowable. Dependent claims 2, 3, 8-11, and 13 are allowable due to their dependency from one of claims 1, 4, 7, and 12.

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4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Melody M. Burch whose telephone number is 703-306-4618. The examiner can normally be reached on Monday-Friday (7:30 AM-4:00 PM).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jack Lavinder can be reached on 703-308-3421. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9326.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1113.

mmb 1/12/04
mmb
January 12, 2004